The Pretense That President Eisenhower Is "Good As New" Wears Thin, See Page Three

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That "Millionaire Radical" His Father Would Once Have Been Prime Target for A Witch Hunt

An Open Letter to William Randolph Hearst, Jr.

Dear Mr. Hearst:

Twenty years ago your father brought a suit here in the District of Columbia against a Senate investigating committee. The head of that committee was Senator Hugo Black of Alabama, now a member of the U.S. Supreme Court. On the precedent established by that once famous case of *Hearst v. Black,* the U.S. Attorney last week asked for the dismissal of the similar test suit I filed against the Senate Internal Security subcommittee under Senator Eastland.

The background of your father's suit was the violent campaign being waged by the electric power companies against the bill which was to become the Public Utility Holding Company Act, one of the corner stones of the New Deal. A flood of fake telegrams had been unloosed on Congress, and in July 1935 the Senate established a special committee under Black with full power to investigate "all lobbying activities" in connection with the pending legislation, and "efforts to control the sources and mediums of communication and information" with respect to it. In the course of its investigation, the committee obtained from the Federal Communications Commission copies of a mass of telegrams, including private messages which had passed between William Randolph Hearst and his newspaper executives.

The Court Refused to Enjoin

Hearst's suit did not question the Senate's right to investigate these lobbying activities. But it did challenge the authority of the Federal Communications Commission to make available to the Senate committee private messages passing between a publisher and his subordinates. Hearst asked the court to enjoin the Black committee from keeping, using or disclosing these messages. He denounced their seizure as an invasion of privacy and a threat to freedom the press. The Court refused to issue the injunction, and was upheld by the Court of Appeals which said "the legislative discretion in discharge of its constitutional functions, *whether rightfully or wrongfully exercised,* is not subject to judicial interference." (Italics added).

The dismissal of my own suit on the same grounds is a certainty. I had hoped by it to put the Eastland committee on the defensive in the courts. The suit was pegged on a $5 voucher from the Senate Internal Security subcommittee subscribing to my *Weekly* for a year. The subcommittee could hardly be buying my *Weekly* to read the box scores or to follow my hunches on the 3rd race at Hialeah. The voucher pin-pointed the subcommittee's morbid interest in watching newspapers and other publications for ideas it may consider dangerous to internal security. I rejected the subscription as an unconstitutional expenditure of public funds under the First Amendment and filed suit for a declaratory judgment that the Internal Security subcommittee had no right to use its funds and staff for surveillance of the press, and enjoining it from such activities.

The U.S. Attorney's motion to dismiss did not argue that the subcommittee's vague powers over "internal security" gave it authority to police the press for "dangerous thoughts." Except for one technical point (failure to allege that the amount in controversy exceeded $3,000), the U.S. Attorney confined himself to arguing that under the law as established in *Hearst v. Black,* a Senate committee cannot be enjoined *even if acting illegally.* On that point I am about to be tagged out before I get to first base.

The Publishers Can Stop It

The reason I appeal to you is not for help in rescuscitating my man-bites-dog effort, though there never was a larger, madder dog bitten by a smaller candidate for hydrophobia. The reason for the appeal is that the Eastland committee, after its three days of executive hearings in New York last week, is on the verge of open circus sessions which will bring the newspaper business and newspapermen fully within the orbit of the kind of intimidation, slander and guilt-by-association which has disrupted government employment and created the kind of scandals your papers protested only recently in the Landy case.

As a newspaperman I am appealing from the courts to the publishers. I believe that a statement now from the publishers of a few leading newspapers would be enough to stop the witch hunt at the very threshold of newspaper business. And I believe you are in an ideal position to take the lead in such an effort, and to pick up the cudgels 20 years later where your father left off in the fight for freedom of the press on the other side of the fence.

What I respectfully suggest is that the publishers assert their right to run their business free from inquisition; that they declare they will not fire men who invoke their constitutional rights against interrogation about their political ideas and associations and that they will judge their employes by their work alone. I suggest that they affirm the right of newspapers and newspapermen to be free from ideological inquiry under the First Amendment. Freedom of the press can easily be abridged by fear of being smeared in the public pillory of a Congressional investigation. I believe they would find a hearty response from a public fed up with the witch hunt if they were to challenge as unconstitutional any effort by Congress to decide what are dangerous thoughts and police the press against them.

Pause a moment and think back a half century and you will see what Congress could have done to your father if the device of Congressional inquisition had been developed before World

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A Few Courageous Publishers Could Save The Press From A Witch Hunt

(Continued from Page One)

War I. When he ran against Charles Evans Hughes for Governor of New York in 1906 he was denounced as a millionare radical and a stooge of the "communistic" Arthur Brisbane, then his chief editorial writer. The Hearst papers were then as sharply left of center as were *PM* and the *Daily Compass* in the New York of the '40s. The Hearst paper had campaigned for many of the reforms urged by populists and socialists. They built their circulation in those days by attacks on wealth and privilege.

Advocated "Free Love," Too

Your father's political opponents made much of Brisbane's origins. He was a kind of Landy enlarged, blamed not for his mother but his father. His father, Albert Brisbane, was one of the first American utopian socialists, a follower of the Frenchman Fourier, who proposed to abolish not only private property but marriage. An "internal security" committee or an "Un-American Activities" committee in those days would have found the Hearst press, its publisher and its chief editorial writer easy targets for sensational smears. Many of the wisest social reforms of this century, notably the income tax amendment of 1913, might have been stymied by such tactics. Remember that in those days the Hearst papers were agitating for this amendment, though the first income tax had been attacked before the Supreme Court literally as "communistic" and thrown out as unconstitutional.

The Eastland committee today cannot even claim to be going after the radical press. The main target of its hearings last week, as you well know, was the *New York Times,* independent conservative, and picked for smear only because it has attacked McCarthy and McCarthyism. The press is to be taught that it cannot criticize the witch hunters with impunity, and whether this succeeds depends basically not on the courts but on the press itself. The great newspapermen of the past were not afraid to fight even against the background of a hostile climate of opinion. But today the public has had enough education in the extremist follies of "security" and "loyalty" to make it ready to applaud a fight-back by the publishers.

The Hearst press, though on the right, has not tried to exploit this affair against its competitors. It has on occasion, as in the Landy case, begun to speak up against these same abuses. You yourself are regarded in the business as bringing fresh new blood into the old Hearst organization, which had grown stale. Here is an issue on which you could step out and make newspaper history.

Sincerely yours,

I. F. Stone

Time and Newsweek Hushed, Too

Though *Time* and *Newsweek* pride themselves on their press departments, neither one this week mentioned the biggest news in newspaper business—the Eastland committee hearings last week in New York City where several dozen newspapermen were questioned behind closed doors, presumably as "security risks." If Senator Eastland has his way public hearings will follow. But so far, no daily except the *New York Post* has protested these hearings as an invasion of freedom of the press, and the two big news weeklies have now joined the ostrich brigade.

Why We Feel Compelled to Acquiesce in the Government's Motion to Dismiss Our Suit

Does Hearst v. Black Mean There Is No Remedy Against Congressional Committees?

Does the *Hearst v. Black* ruling mean that newspapermen or other citizens have no remedy against unlawful abuse of power by Congressional committee? No. The ruling only means that the courts will not interfere with the legislative process by injunction. The ruling was that it would violate separation of powers were the courts to interfere with the legislature.

How, then, is relief possible? Two years ago the Circuit Court of Appeals here reversed the conviction of a professional gambler (*Nelson v. U.S.*, 208 F. 2d 505) on evidence which the Kefauver inquiry obtained illegally. The Court ruled that while under *Hearst v. Black* it could not enjoin a Congressional committee from unlawful conduct, it could refuse to recognize the fruits of such conduct. Where and when a committee must go to the courts to enforce its will, there the courts have the right to interfere.

The latest and most authoritative expression of this view was made by Chief Justice Warren in *Quinn v. U.S.* last May 23 when in reversing a conviction for contempt of the House Un-American Activities Committee he wrote:

"But the power to investigate, broad as it may be, is also subject to recognized limitations. It cannot be used to inquire into private affairs unrelated to a valid legislative purpose. Nor does it extend to an area in which Congress is forbidden to legislate. Similarly, the power to investigate must not be confused with any of the powers of law enforcement. . . . Still further limitations on the power to investigate are found in the specific individual guarantees of the Bill of Rights. . . ."

Within the broad area sketched out by the *Nelson* and *Quinn* decisions, newspapermen and others may hope successfully to challenge invasions of freedom of press and speech by refusing to answer unlawful inquiry and inviting action for contempt.

The Logic of the Rule

Why not allow interference by injunction? The legislative process could be disrupted if it could be interfered with directly by judicial orders. Though there may be marginal cases in which interference by injunction with a legislative committee is justified, the rule of *Hearst v. Black* generally seems to be sound law and good public policy. The consequences of the opposite rule would be too dangerous, creating more evils than it would correct.

The New Deal had enough trouble with suits to declare its basic reforms unconstitutional. It might have been hopelessly hamstrung if powerful interests could have interfered by injunction in the very process of legislative hearings and debate. Believing as we do that the law is not just a debater's bag of tricks, containing doctrines to be cynically utilized or abandoned as immediate interest dictates, we cannot go into court and oppose the government on a point with which, after careful study of the cases cited, we find ourselves in agreement.

On this ground, and this ground alone, that injunction under these circumstances would be an improper remedy, we are acquiescing in the motion to dismiss our suit against the Eastland committee.

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Capital Roundup: Is A New Trend Toward Armed Isolationism Ahead?

Washington's First Glimpse of the President "Since" Is Disturbing

President Eisenhower: The pretense that he is "good as new" wore thin with his reappearance last week in Washington. A combination of kindness and political expediency has been holding back the full truth about his condition. Those who saw him here last Monday at the reception for the Uruguayan President were disturbed. He looked well for a man who had just come through a heart attack—but overnight the years had caught up with him. As an elder statesman he may play a useful role and enjoy well-deserved years of retirement but he did not look like a man who ought to risk the strains of a political campaign and the Presidency.

Why Moscow "Surrendered" on Outer Mongolia: The sudden last minute shift cost the Russians little. They will now have nine votes instead of ten. But the shift has cost the U.S. the easy veto it wielded in the past on issues requiring a two thirds vote. In the original Assembly of 51 votes, 17 were enough for this "veto" but in the new Assembly of 76, the U.S. would have to muster 26 votes—and the entire Western Hemisphere (which does not always agree with us) has only 22. On the other hand, a combination of Soviet, Asian-African bloc and "neutralist" states will now be big enough to wield a veto of its own. By swallowing its pride and giving up Outer Mongolia temporarily (until a "swop" is arranged for its admission with Japan) the Soviet Union has changed the political complexion of the UN, which now emerges into an era of greater independence. This will make itself felt next year in new crises to be expected over Indochina, Formosa and the admission of Peking.

Back to the Arms Race: With the President's weight absent from the precarious scales of policy, the shift is back to the arms race. The cave-man mind in the electronics era now reaches for the intercontinental ballistic missile as a new "ultimate" weapon. If we succeed in making it, we will make the task of disarmament and control almost hopeless and frighten ourselves into the psychology of the garrison state. The Missile, by freeing us from dependence on foreign air bases, would also free us from the need for taking into account the more sober and often restraining views of our allies. Add this trend to the new independence of the UN and a revival of isolationist tendencies is in the cards.

New Far East Crisis: Senator George has been warning for some time that there was danger of a new flare-up unless we agreed to negotiations with Peking at the only level which would mean anything, Dulles and Chou En-lai. But Dulles, closer to Knowland than Eisenhower anyway, would rather risk war on the Formosa straits than trouble at home with Republican rightists and with Democrats anxious to accuse the G.O.P. (for a change) of "softness" toward Communism. The expectation of trouble explains the hurried visit of Secretary of the Army Brucker to Quemoy and the Cook's tours of the island being arranged by Chiang for U.S. press and military.

Dulles and Goa: Real explanation for his folly on Goa is that the statement was issued to sweeten up Portugese Foreign Minister Cunha. The agreements which allow the U.S. to maintain and man bases in the Azores begin to expire next year. After Dulles took Portugal's side on Goa, Cunha issued a statement saying that his country was willing to negotiate extension of these agreements. We defend colonial bases in Asia in order to keep our own "colonial" bases in West Europe.

Bon Voyage and Bon Cold War

Bon Voyage, and "Bon Cold War": "In advance of his departure this afternoon [for Paris and the NATO meeting] Mr. Dulles was reported confident. . . . The East-West deadlock at Geneva, he believes, will serve new impetus for the 15 allies to stick together, rising what he saw as a growing trend toward disunity - to the Geneva conference with the Russians."

—Washington Evening Star, December 13

Lattimore Emerges Fighting From 'Ordeal by Slander'

"It is ironic that because of the fear which has resulted in so much and such fantastic re-writing of the recent history of China, and our relations with China, my rightness has in recent years received much less consideration than my alleged wrongness. The most fantastic thing of all is that the one thing on which I was *really* wrong was either never mentioned at all, or perverted into its exact opposite. I mean my slowness in realizing that Chiang Kai-shek's palace guard and his own increasing megalomania had pulled him down from the high place that he had once occupied as the symbol of China and a great figure of freedom in Asia; that, as the Chinese put it, he was losing the mandate of heaven. That is a salutary reminder that there is often more danger of being stabbed in the back by hired assassins than of honorable wounds inflicted in battle."

—Owen Lattimore, speaking on "Fear and Foreign Policy," before the annual Bill of Rights dinner held by the Emergency Civil Liberties Committee in New York December 15, his first public speech since the government abandoned its attempt to "get" him on perjury charges.

Otto John: Most reasonable explanation is that he fled West Germany in protest against the increasing influence of ex-Nazis and militarists, and then fled back from East Germany because he couldn't stand the suffocating atmosphere of the Soviet satellite regime there. The chief Communist party paper, *Neues Deutschland*, provided a glimpse of what has been happening when it complained—just before the new John sensation—of a mass emigration of intellectuals from the East zone. The place is comfortable only for party hacks, and the kind of yes-men who thrive under any dictatorship, right or left.

As Variety Would Put It: Congressman Walter's latest laid an egg as a road show. The House Un-American Activities Committee chose Chicago for the debut of its long expected public testimony by Herbert Fuchs that there were Communists in NLRB and other New Deal agencies is hardly news by now. The real news is that even the *Chicago Tribune* couldn't work up any excitement over it and printed the story on page 12. This is an important index of the current climate. The Washington press played the story on page one because of the local names but in New York, like Chicago, it ran into heavily diminishing returns. Hearst's *Mirror* didn't even run the story; the *Daily News* squeezed it in under Smilin' Jack on page 52; it was on page 12 of the *Herald-Tribune* and page 30 of the *New York Times*. The House committee may be cheered to learn that it did get a good play in the *Daily Worker*.

Amnesiac Footnote: After that speech of George Meany's attacking Nehru and Tito abroad, and the liberals at home, we find it hard to remember just what was that hot encounter he had at the NAM. Was he too far right for them?

Hat's Off: To John Henry Faulk who organized and carried to victory in AFTRA a middle-of-the-road slate dedicated to fighting the radio-TV blacklist and AWARE, Inc.

The Weekly is published 48 weeks a year. It does not go to press the last two Thursdays in August or December. We sign off now for Christmas vacation.

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The Forgotten C.O.'s and How Times Have Changed the Connotations of the Name "Ford"

Some Thoughts Sweet and Sour for the Christmas Season

The happiest thought we can contribute for the New Year: Henry Ford in the 20's was threatened with a boycott for supporting the dissemination of anti-Semitic and Fascist propaganda. His grandson in the 50's is being threatened with a boycott by rightists because Ford money established the Fund for the Republic and made possible the wonderful work it has been doing in defense of civil liberties. Thirty years ago the money of a great industrial genius was slipped out the back door to support that hate sheet, the *Dearborn Independent*. Today a hate sheet urges people not to buy Fords because of the Fund for the Republic. So there is change for the better and if politics is to play a part in car-buying, we can think of no finer reason for trading in our old jalopy for a Ford. . . .

We can forgive Henry Ford 2d for the crumb of appeasement he has offered the American Legion and other extremist groups by saying in a private letter that maybe the Fund has taken some actions "dubious in character" which led inevitably to "charges of poor judgment." In a free and democratic country, whoever depends on a mass market, whether a politician or a business man, is inexorably pushed toward a common denominator which leaves him with little freedom to do or say anything to which any sizeable minority strongly objects. But need the Ford family apologize because along with its munificent gift of a half billion dollars to hospitals and schools, it also established a Fund with $15,000,000 to defend the Bill of Rights, which even American Legion orators admit is a not unimportant national possession? . . .

Nothing seems to us more important in the preservation of a humane society than to break up as many as possible of the encrusted stereotypes which breed hatred and misunderstanding. In this I include not only the stereotypes of the other side but our own. So here we have the spectacle of one of America's biggest capitalist fortunes setting up a Fund which has helped defend the rights of anti-capitalist radicals—and is attacked for it by unthinking grass roots elements—while the great majority of the common people are largely indifferent to the fate of the fundamental traditions on which their freedom depends. Some people so hate to have their neat little black-and-white maps of the world disturbed that they will consider me downright mischievous to dwell on a spectacle which so little fits the clichés of democratic and Leftist oratory. But I cannot imagine a better subject for our meditations in the Christmas season. . . .

And while we're on the subject and since this is our last issue of 1955 (we only publish 48 weeks a year and do not go to press the last two Thursdays in August and December), we'd like to say a word for the conscientous objectors. A delegation of them picketed the White House last week-end but nobody paid them any mind, and though the Associated Press sent out a stick and a half on the story I didn't see it anywhere but the York, Pa., *Gazette and Daily*, still the shiny candle in the naughty world of American journalism. The Voice of America continues to explain how We (unlike Them) build our society on tender concern for individual conscience. But it was a bit of a surprise even to us to learn that there are still nearly 13,000 men who have yet to be pardoned for refusing to take up arms in the last war on the grounds of religious or moral scruple. Harry Truman at Christmas time in 1947 pardoned about 1500 but nothing has been done since to lift the bars which consign C.O.'s to second class citizenship as unpardoned felons. Since 1947 was also the beginning of the cold war in which all good Christians were called upon to hate their enemy and pay higher taxes to smite him back twain with A and H bombs in case of trouble, this may explain why no more C.O.'s have been pardoned. We suppose it didn't seem logical to encourage conscientous objection by pardoning those guilty of it in the last war when we were getting ready for a new one.

Those Poor Little Pigs Again

When Senator Hickenlooper, solidly Republican and Iowa, came up last week with the proposal that the government raise pork prices by buying little pigs for slaughter, an enterprising Associated Press reporter remembered what happened after the New Dealers did this in 1933 and telephoned Henry Wallace for comment. Since most editors spiked the story we provide the gist of it here for a chuckle.

Maybe so few papers ran the story because Wallace was untactful enough to recall that Midwestern Republicans initiated the pig buying program 22 years ago. He advised against it now, even though the pork were again given to the needy.

Wallace said the program would be hopelessly misrepresented and it was better not to run counter to popular mythology. "More crocodile tears were shed about those sweet little pigs," he told the AP man, "than about any animals in history. It so happens that the city public looks on the pig as a merry little creature who goes tripping along singing, 'Who's Afraid of the Big Bad Wolf' and living to a ripe old age as a household pet." We wonder at that how many city folks unconsciously imagine the hen lays the bacon along with the eggs.

Next Issue of The Weekly Will Be Jan. 9—Till Then We Wish You A Merry Christmas and A Happy New Year

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